Consultative Document
The Ionising Radiations (Outside Workers) Regulations and Approved Code of Practice

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Explanatory Note

INTRODUCTION

1 This Consultative Document contains proposals for new regulations and associated practical guidance in the form of an approved code of practice. Their purpose is to implement a Euratom Directive (Ref 1) which aims to improve the radiation protection of certain workers who work away from their employers' premises. Member States are required to implement the Directive by 31 December 1993. Although existing UK legislation (Ref 2) and practice effectively achieve the desired results, the relevant statutory provisions are in general terms that would not be seen as adequate implementation of the Directive. New, more specific, legislation is therefore needed. The following paragraphs explain the background to, and the main features of, the proposed regulations and associated guidance and assess the likely economic impact. Comments are invited, particularly on identified aspects of the proposals.

BACKGROUND

2 Detailed requirements already exist, at both national and European level, for the radiation protection of individuals occupationally exposed to ionising radiations. The current Directive establishing the basic safety standards for radiation protection was adopted in 1980 (Ref 3) and amended (in relatively minor detail) in 1984 (Ref 4). The "basic safety standards" Directive was implemented in the United Kingdom by the Ionising Radiations Regulations 1985 (IRR 85)(Ref 2), and associated Approved Code of Practice Parts 1 to 4 (Ref 5), and similar Northern Ireland legislation.

3 In recent years there has been growing concern in certain quarters in Europe, including the European Parliament, that peripatetic radiation workers may not be receiving the same level of radiation protection as the full-time radiation workers on the sites they visit, particularly where they cross national frontiers. Specialist maintenance workers who work in teams,

moving from site to site in rotation to service pressurised water reactors during the month of their annual shut-down, are an example of such workers. A specific Directive focussing on this topic was therefore proposed.

4 The "Outside Workers" Directive (Ref 1), adopted on 4 December 1990, was the result. The detailed provisions of the Directive were negotiated by representatives of member States in the European Council's Atomic Questions Working Group during 1990. Briefing for the United Kingdom representative was prepared by the Health and Safety Executive on the basis of advice from relevant Government Departments and other interested parties, including the Confederation of British Industry, Trades Union Congress and National Radiological Protection Board. The Directive as finally adopted was broadly acceptable to the United Kingdom. It applies when workers designated as category A workers (classified persons in UK legislation) by their employer ("the outside undertaking"), or themselves if self-employed, go to work in the controlled areas of another employer ("the operator") thereby becoming "outside workers". The designations "category A worker", "classified persons" and "controlled areas" relate to requirements in the basic safety standards Directive and IRR 85 which reflect a likelihood of exposure to higher levels of radiation.

5 Regulation 4 of IRR 85 requires co-operation between employers that generally achieves the desired standard of protection for outside workers. The provision is expressed in general terms, however, therefore new regulations are needed to specify the detailed actions identified in the Directive.

LEGAL BASE

6 The proposed regulations will be made under the Health and Safety at Work etc. Act 1974 and, because of the need to put duties on employers in respect of their workers while abroad, the European Communities Act 1972 (Ref 6).

MAIN FEATURES OF THE DRAFT REGULATIONS AND APPROVED CODE OF PRACTICE

7 The regulations will apply only when outside workers, as defined, go to work in operators' controlled areas. The regulations will also cover workers who come from, or who go to work in, another member State of the European Community. They specify actions additional to those, such as medical surveillance, training and personal dosimetry, that employers must already carry out by virtue of IRR 85. The main feature of the regulations is the need for pre-planning and the overt exchange of information between the outside undertaking and the operator. Much of this information will be exchanged through the medium of a new document, the "radiation passbook", which will contain identifying details of the worker to whom it is issued and information about the dose received by that worker.

8 Throughout this document, references to "dose assessment" (or variations of the term) mean the statutory assessment (and recording) of dose that the outside undertaking must already make as an on-going action under regulation 13 of IRR 85. "Dose estimate" refers to the more transient estimates which the operator must make under the proposed regulations in respect of the outside worker's exposure during work in the operator's controlled areas. All entries in the passbook are additional to those statutorily required by IRR 85.

Definitions

9 Regulation 2(1) defines terms, such as the operator, the outside undertaking, the outside worker and the radiation passbook, that do not appear in IRR 85. All other terms are as used in those Regulations. It is particularly important that the difference between the outside undertaking and the operator should be clearly understood and identified and the draft Code offers further clarification.

Duties of the outside undertaking

10 The outside undertaking's first duty is to find out what radiation hazards his outside workers will be exposed to when carrying out the operator's assignment (other, general, workplace hazards are or will be covered by other legislation). It should then make whatever arrangements may be necessary to assign to that work outside workers who are, or will be by the time they start the work, suitable in every respect. It is suggested that the most effective way of obtaining and exchanging information, and identifying who does what, will generally be by means of a written contract between the two parties - **comment is specifically invited on this point.**

11 The next duty is to arrange, through the outside undertaking's approved dosimetry service for record-keeping, for a radiation passbook to be obtained, issued, replaced and kept as necessary for each outside worker. Arrangements must also be made for the information therein to be updated appropriately. Most of the detailed duties in respect of the passbook are in Regulation 5 (see para [13]).

12 It is envisaged that outside undertakings will wish to, indeed should, seek advice from their statutorily appointed radiation protection advisers (RPAs); there may be occasions when the outside undertaking's RPA could usefully make direct contact with the operator's RPA.

13 A specific provision (draft regulation 4(2)) extends the IRR 85 requirement for assessment of dose to cover outside workers when they are sent to work in another member State, so that their record of dose will be complete even in such circumstances. Outside undertakings may choose to continue to use their approved dosimetry service for this purpose or to have doses assessed by a suitable organisation in the other member State. The existence of the Euratom Directives (Refs 1 and 3) make it appropriate to extend this statutory requirement throughout the European Community; it is hoped that employers will voluntarily make best efforts to have doses assessed wherever they send their classified

employees in the rest of the world, but there is no proposal at this time to make such action mandatory.

Radiation passbooks

14 Documents similar to the proposed radiation passbook are already used by some employers in Great Britain and in other member States. The proposed details in the HSE-approved passbook are based on the requirements in the Annexes to the Directive, with the possible addition of training information. Opinions are divided on the desirability of this addition, and **comment is specifically invited on this point.** The Directive requirements for security and issue by the competent authority mean that only passbooks purchased from HMSO or, in the case of a non-GB based outside undertaking, authorised by the competent authority of another member State may be used; additionally they may only be purchased and issued by ADSs, albeit the issue will be on the instructions of the employer.

15 The only occasion on which it is suggested that use of a non-approved document might be permissible is if there is necessarily a short time-lag between notification of loss of a passbook and issue of a replacement. Arguably it would be neither acceptable nor in the spirit of the Directive to allow the outside worker to proceed without a passbook and a ban on further work, at least on a new operator's site, could be imposed until the replacement is received. This might be unnecessarily harsh, however, and Regulation 5(7) therefore envisages allowing the outside undertaking to issue the information in a temporary, unapproved, form for a specified, limited, period of time; the draft Code contains a specimen document. **Comment is invited on the need for such a provision.**

Duties of the operator

16 The duties specified in the draft regulations are very similar to the actions that some operators already carry out voluntarily. Such organisations may need to do little more than adjust their systems and procedures. Others will need to make arrangements for

handling passbooks and estimating doses as well as perhaps structuring their exchange of information with the outside undertaking more clearly than previously.

17 Two situations may justify slight, temporary, modifications to the general requirements for operators to be presented with up-to-date passbooks before allowing outside workers to start work and to make and enter in the passbooks estimates of the dose received by outside workers while in the operators' controlled areas. The first is where the visits are of short duration, often repeated frequently, and the exposure on each visit can be shown to be likely to be cumulatively sufficiently small that the benefit would not justify the cost of the additional procedures (see regulation 6(4). In such circumstances and together with other safeguards normal dose assessment might be adequate protection, which would relieve the operator of the need to make and enter estimates of dose on each such occasion. **Comment on the proposal detailed in the draft regulation and Code is sought.**

18 The second situation (see regulation 6(5)) is where, exceptionally and accidentally, an outside worker arrives at an operator's site without his passbook. Once again, an outright ban on entry could be imposed but might be an unjustifiable burden, given that outside workers are already subject to statutory dose assessment under IRR 85. The need is to maintain radiation protection standards and discourage possible abuse of the system without causing unnecessary inconvenience (particularly for the operator). The line taken in the draft regulation and Code is that there should be some flexibility to allow the outside worker to start work if reasonable enquiries provide no contra-indications. As such circumstances might indicate a weakness in the outside undertaking's organisation or management, a record of the use of this proviso should be kept by the outside undertaking and made available for inspection. **Comment on the need for this proposed modification is sought.**

Duties of the outside worker

19 The duties detailed in regulation 7 are solely in respect of the radiation passbook, reinforcing the importance attached to this document and the need for outside workers to co-operate in ensuring their own radiation protection.

Defences

20 A most important feature of the Directive, and thus of the regulations, is the recognition that there should be flexibility to allow the most appropriate person or organisation to carry out an action, even where the duty to perform the action is on someone else. This appears in the regulations as a defence, one which is most likely to be successfully invoked, when needed, by the existence of a sufficiently detailed written contract in respect of performance of the relevant actions.

21 Regulations 8(3) and (4) are similar to those in the "Pressure Systems" Regulations (Ref 7). Their purpose is two-fold: firstly to ensure that HSE has a warning that the defence may be used, and a chance to see the contract, and secondly to provide a legal mechanism by which prosecution of the other party to the contract can be undertaken when that other party is at fault.

PROPOSALS FOR FURTHER GUIDANCE

22 A drafting group has been set up to help identify and draft the further guidance that is likely to be needed in addition to that in the Code, eg on situations in which the regulations will or will not apply. The drafting group comprises HSE officials plus nominees from the Confederation of British Industry, the Trades Union Congress, National Radiological Protection Board and the health and service engineers sectors (see page 44). It is intended that this guidance, which will be subject to separate consultation in draft form, will be published in the same document as the Regulations and Approved Code of Practice.

COSTS AND BENEFITS

23 In principle, most of the requirements of the proposed Regulations should already be carried out by employers and the self-employed to comply with their general duties under the 1974 HSW Act. Additional costs, however, are likely to arise where the Regulations require employers and the self-employed to adopt a more detailed and structured approach to meeting their health and safety responsibilities. Quantifying these costs with any degree of confidence is extremely difficult because of lack of data.

24 The costs of the proposed Regulations are estimated to be between £3m and £30m over a ten year period (discounted to give a net present value), giving a mid-range value of around £17m. This includes one off costs in terms of new dosemeters (both initially and after 5 years), recurrent annual costs of operating the passbook system, estimated to be between £400,000 and £4 million, depending on the number of workers affected and HSE costs estimated to be around £112,000. The benefits are unfortunately too complex to quantify easily; they are: the reduced risk of over exposure of outside workers, a more comprehensive system of monitoring to help pinpoint exactly where and when particular exposures took place so as to ensure that all exposure was as low as reasonably practicable (allowing full investigation of the causes and circumstances) and harmonisation of EC legislation to increase mobility of outside workers within the European Community.

INVITATION TO COMMENT

25 While comment on any of the proposals will be welcome, reactions are particularly sought on the following points:
(a) should the Code advise that all relevant contracts between the outside undertaking and the operator should be in writing (see para 10);
(b) should the information in the radiation passbook be confined to that required by the Directive, or should it include entries relating to the provision of job or site specific training (see para 14);

(c) is the proposed provision allowing use of a temporary document, pending issue of a replacement passbook, necessary (see para 15);

(d) will the proposed method for dealing with short, frequent, visits of little radiological significance achieve its objectives (see para 17);

(e) is there a justifiable need to make specific arrangements to allow, in certain circumstances, outside workers to work when they cannot produce their passbooks, and if so are the proposals appropriate (see para 18).

All comments should be sent to the person named on the front cover by the date shown.

REFERENCES

1 90/641/Euratom, Council Directive of 4 December 1990 on the operational protection of outside workers exposed to ionizing radiation during their activities in controlled areas.
OJ No L349, 13.12.1990, p. 21

2 The Ionising Radiations Regulations 1985, SI 1985 No. 1333, HMSO, ISBN 0 11 057333 1

3 80/836/Euratom, Council Directive of 15 July 1980 amending the Directives laying down the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation. OJ No L246, 17.9.1980.

4 84/467/Euratom, Council Directive of 3 September 1984 amending Directive 80/836/Euratom as regards the basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation. OJ No L265, 5.10.1984, p. 4.

5 Approved Code of Practice, (Parts 1 and 2), The protection of persons against ionising radiation arising from any work activity, HMSO, ISBN 0 11 883848 5; Part 3, Exposure to radon, HMSO, ISBN 0 11 883978 0; Part 4, Dose limitation - restriction of exposure, HMSO, ISBN 0 11 885605 7.

6 European Communities Act 1972, 1972 c.68.

7 The Pressure Systems and Transportable Gas Containers Regulations 1989, SI 1989 No.2169, HMSO, ISBN 0 11 885516 6.

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Draft 1/11/91 **HEALTH AND SAFETY**

The Ionising Radiations (Outside Workers) Regulations 1993

Draft proposals for Regulations to be made by the Secretary of State being the Minister designated[a] under section 2(2) of the European Communities Act 1972[b] for laying down the basic safety standards for the health protection of the general public and workers against the dangers from ionising radiation under the said section 2 and sections 15(1), (2), (4)(a), (5)(b), and (6)(b) and 82(3)(a) of, and paragraphs 11, 13(2), 15(1) and 16 of Schedule 3 to, the Health and Safety at Work etc. Act 1974.

Citation and commencement

1. These Regulations may be cited as The Ionising Radiations (Outside Workers) Regulations 1993 and shall come into force on 1st January 1994.

Interpretation

2. -(1) In these Regulations, unless the context otherwise requires -

"the 1985 Regulations" means the Ionising Radiations Regulations 1985[c];

"the Basic Safety Standards Directive" means the Council Directive of 2 February 1959 laying down the basic safety standards for the protection of the health of workers and the general public against dangers from ionizing radiation[a], as amended by Council Directive 80/836/Euratom[b] and Council Directive 84/467/Euratom[c];

(a) S.I. 1992/----.
(b) 1972 c. 68.
(c) S.I. 1985/1333.

"competent authority" in relation to the competent authority of a member State means the authority empowered to enforce the basic safety standards for the health protection of workers against dangers from ionising radiation in that member State;

"member State" means a member State of the European Communities;

"operator" means a person in a member State having control of controlled areas which have been, or are required to be, designated as such areas in respect of work with ionising radiation being carried on there;

"outside undertaking" means the employer of a classified person who undertakes work in the controlled areas of any operator (other than itself) within a member State;

"outside worker" means a classified person employed by an outside undertaking to work within the controlled areas of any operator (other than himself) and includes such a worker employed by an outside undertaking situated in another member State or in Northern Ireland;

"radiation passbook" means -

(a) in the case of an outside worker employed by an outside undertaking in Great Britain, a passbook approved for the purpose of these Regulations by the Executive;

(b) in the case of an outside worker employed by an outside undertaking in Northern Ireland, a passbook authorised by the competent authority for Northern Ireland; or

(c) in the case of an outside worker employed by an outside undertaking in another member State a passbook authorised by the competent authority of that member State.

(a) OJ No. 11, 20.2.59, p. 221/59.
(b) OJ No. L246, 17.9.80, p. 1.
(c) OJ No. L265, 5.10.84, p. 4.

(2) In these Regulations, "a classified person" includes any person in a member State who has been designated by his employer in that State as a category A exposed worker within the meaning of Article 23 of the Basic Safety Standards Directive.

(3) Except where otherwise specifically provided for in these Regulations, regulation 2 of the 1985 Regulations (Interpretation) shall apply to these Regulations.

Application

3. -(1) These Regulations shall have effect with a view to ensuring that outside workers engaged in work with ionising radiation in controlled areas under the control of an operator receive the same level of protection as the classified employees of that operator.

(2) Without prejudice to the requirements of regulation 4 of the 1985 Regulations (co-operation between employers), regulation 6 of these Regulations (duties of the operator) shall not apply to an outside worker who enters a controlled area of the operator in the exercise of powers conferred on him by any enactment.

(3) In the case of an outside worker employed by an outside undertaking in Northern Ireland or another member State, it shall be sufficient compliance with regulation 13 (dose assessment) and regulation 16 (medical surveillance) of the 1985 Regulations if the outside undertaking complies with legislation in force in Northern Ireland or that member State, as the case may be, implementing Chapters II and III of the Basic Safety Standards Directive.

(4) Subject to paragraph (3), nothing in these Regulations shall prejudice the requirements of the 1985 Regulations.

(5) These Regulations shall not apply to Northern Ireland.

Duties of the outside undertaking

4. -(1) It shall be the duty of an outside undertaking which employs an outside worker to work in the controlled areas of an operator -

(a) before commencing the work, to make suitable arrangements to obtain from the operator information about the radiological and other specific risks relevant to the intended work and to the controlled areas in which it is to be undertaken and any special training that may be required;

(b) to ensure that the outside worker concerned has received the necessary information and training with a view to ensuring his safety in the course of that work; and

(c) to make suitable arrangements to ensure that an estimate is made of the dose received by the worker in the course of that work.

(2) Where an outside undertaking employs an outside worker, the outside undertaking shall make suitable arrangements to ensure that a continuing record of the assessment of the dose received by the outside worker is maintained by the approved dosimetry service throughout the period of his employment by the outside undertaking.

Radiation passbooks

5. -(1) The outside undertaking shall ensure that each outside worker employed by it is provided with an individual radiation passbook which shall be non-transferable and in which shall be entered the particulars set out in the Schedule to these Regulations.

(2) The outside undertaking shall make suitable arrangements to ensure that the particulars entered in the radiation passbook are kept up to date.

(3) The outside undertaking shall ensure that a suitable record is kept of the issue of any radiation passbook to each outside worker to whom one has been issued and of the loss of any passbook which has been reported to it in accordance with regulation 7(1)(a) and such records shall be kept for at least 5 years after the passbook ceased to be used by the outside worker.

(4) Where the outside undertaking has had the loss of a passbook reported to it in accordance with regulation 7(1)(a), it shall make an investigation of the circumstances of that loss, and an assessment, or if that is not reasonably practicable, an estimate, of the dose received by the outside worker and shall ensure that a report of the results of that investigation and assessment or estimate, as the case may be, is entered into the record referred to in paragraph (3).

(5) Where an outside worker has returned a radiation passbook to the outside undertaking in accordance with regulation 7(1)(b), the outside undertaking shall ensure that the passbook is kept for at least 5 years from that date.

(6) Where the passbook has been returned to the outside undertaking as it is full and requires renewal or its loss has been reported to the outside undertaking, the outside undertaking shall ensure that a new passbook is issued forthwith to the outside worker and in a case where the passbook has been lost, the new passbook shall be clearly marked with the word "replacement".

(7) If it is impracticable for the outside undertaking to issue a replacement passbook immediately on receipt of notification of loss of a passbook by an outside worker in accordance with regulation 7(1)(a), the outside undertaking may issue to the outside worker a temporary document, containing as much of the information specified in the Schedule to these Regulations as is available, but such a document shall only remain valid for 7 days from the day it was issued or for the period before the replacement passbook is issued, whichever is the shorter, and while it is valid, the document shall be treated as a passbook for the purposes of these Regulations.

Duties of the operator

6. -(1) It shall be the duty of an operator who has an outside worker working in any controlled area under his control, before the commencement of that work -

(a) to provide the outside undertaking with the information referred to in regulation 4(1)(a);

(b) to take all reasonable steps to ensure by reference to the radiation passbook or by other means that the outside worker -

(i) has received any specific training required for the work,

(ii) is medically fit to undertake the work, and

(iii) has been provided with and has been trained to use any personal protective equipment that may be necessary for the safe performance of the work.

(2) As soon as is reasonably practicable after the work referred to in paragraph (1) has been completed, it shall be the duty of the operator to ensure that an estimate of the dose received by the outside worker is entered into the radiation passbook of the outside worker.

(3) In a case where the operator no longer has access to the passbook of the outside worker when the information required by paragraph (2) becomes available to him, he shall forthwith give that information to the outside undertaking.

(4) The duty imposed on the operator under paragraph (2) to ensure that an estimate of the dose received by the outside worker is entered into his passbook shall not apply in any case where having regard to -

(a) the nature and duration of the work undertaken in the controlled areas under the control of the operator; and

(b) the pattern of past and present working by the outside worker and the estimates of the dose previously received entered in the passbook,

and after consulting the outside undertaking, the operator is satisfied that the outside worker will be most unlikely to receive in the month in which the work is undertaken a radiation dose which exceeds one thirty-sixth part of any annual dose limit for that worker.

(5) Where an outside worker arrives to undertake work in a controlled area under the control of an operator but does not have his passbook with him, before allowing the outside worker to commence work, the operator shall take all reasonable steps to inform the outside undertaking and to establish the information that should be in the passbook, and if he allows the outside worker to commence work he shall forthwith notify the outside undertaking that he has done so.

(6) If an estimate of the dose received by an outside worker indicates that any dose limit for that worker may have been exceeded, regulation 29 of the 1985 Regulations shall apply.

Duties of the outside worker

7. -(1) It shall be the duty of every outside worker to -

(a) take reasonable care of the radiation passbook issued to him, and if it is lost report the loss forthwith to the outside undertaking and in such a case co-operate with the outside undertaking in any investigation made in accordance with regulation 5(4);

(b) not to misuse the radiation passbook issued to him or falsify or attempt to falsify any of the information contained in it;

(c) if he leaves the employment of the outside undertaking or the radiation passbook is full and requires renewal, forthwith give the passbook to the outside undertaking; and

(d) make the radiation passbook available to the operator of any controlled area in which he undertakes work and to take the passbook with him when his work in that controlled area has been completed.

(2) It shall also be the duty of the outside worker to take such steps as are reasonable for a person in his position to take to ensure that an estimate of the dose that he receives in the course of that work is either entered in his passbook or notified to the outside undertaking.

(3) Where an outside worker who has lost a passbook subsequently finds it, he shall forthwith report its finding to the outside undertaking and return that passbook to the undertaking.

Defences under these Regulations

8. -(1) It shall be a defence in any proceedings against an outside undertaking for a breach of a duty under these Regulations for that outside undertaking to show that -

(a) it had entered into a contract in writing with the operator for him to perform that duty on its behalf; and

(b) the breach of duty was a result of the operator's failure to fulfil that contract.

(2) It shall be a defence in any proceedings against an operator for a breach of a duty under these Regulations for the operator to show that -

(a) he had entered into a contract in writing with the outside undertaking for it to perform that duty on his behalf; and

(b) the breach of duty was a result of the outside undertaking's failure to fulfil that contract.

(3) The person charged shall not, without leave of the court, be entitled to rely on the defence referred to in paragraph (1) or (2) unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing that he intends to rely on the defence and this notice shall be accompanied by a copy of the contract on which he intends to rely and, if that contract is not in English, an accurate translation of that contract into English.

(4) For the purpose of enabling the other party to the contract to be charged with and convicted of an offence by virtue of section 36 of the Health and Safety at Work etc. Act 1974, a person who establishes a defence under this regulation shall nevertheless be treated for the purposes of that section as having committed the offence.

Enforcement and civil liability

9. In as far as any provision of these Regulations is made under section 2 of the European Communities Act 1972, that provision -

(a) shall be treated as if it were a health and safety regulation made under section 15 of the Health and Safety at Work etc. Act 1974 and the provisions of that Act (including the provisions relating to enforcement, the approval of codes of practice and the use of codes of practice in criminal proceedings) and of any health and safety regulations shall apply to that provision as they apply to health and safety regulations; and

(b) shall, in the event of a breach of duty imposed by that provision, confer a right of action in civil proceedings in so far as that breach of duty causes damage.

Application of certain provisions of the 1985 Regulations

10. Regulations 36 (Exemption certificates), 37 (Extension outside Great Britain) and 40 (Modifications relating to the Ministry of Defence etc.) of the 1985 Regulations shall apply to these Regulations.

The Schedule   Regulation 5(1) and (7)

Information to be entered in the passbook

1. Individual serial number.

2. A statement that the passbook has been approved by the Executive for the purpose of these Regulations.

3. Date of issue of the passbook.

4. Name and address of the outside undertaking and signature of an authorised person.

5. Full name, date of birth, gender and relevant identification number of the outside worker who will hold the passbook.

6. Date of the last medical review of the outside worker and his classification under the 1985 Regulations, as fit, fit subject to conditions (which shall be specified) or unfit.

7. Space for the insertion of the following details of each assignment undertaken by the outside worker -

   (a) name of the organisation where the assignment is undertaken;

   (b) period covered by the assignment;

   (c) latest dose assessment before the commencement of the assignment;

   (d) estimated dose information.

Draft Approved Code of Practice on the Ionising Radiations (Outside Workers) Regulations 199- to be approved under Section 16(1) of the Health and Safety at Work etc. Act 1974

APPROVED CODE OF PRACTICE

"The protection of outside workers against ionising radiations in operators' controlled areas"

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NOTICE OF APPROVAL BY THE HEALTH AND SAFETY COMMISSION OF THE CODE OF PRACTICE ON THE PROTECTION OF OUTSIDE WORKERS AGAINST IONISING RADIATIONS IN OPERATORS' CONTROLLED AREAS

By virtue of Section 16(1) of the Health and Safety at Work etc. Act 1974 and with the consent of the Secretary of State for Employment the Health and Safety Commission has on 199- approved the Code of Practice entitled "The protection of Outside Workers against ionising radiations in operators' controlled areas".

The Code of Practice give practical guidance with respect to the Ionising Radiations (Outside Workers) Regulations 199[3]
(SI 199[3] No.)

The Code of Practice comes into effect on [1 January 1994] which is the date the Regulations come into operation.

Signed
Secretary to the Health and Safety Commission

INTRODUCTION

The regulations

1 The Ionising Radiations (Outside Workers) Regulations implement Council Directive of 4 December 1990 on the operational protection of outside workers exposed to the risk of ionizing radiation during their activities in controlled areas. The regulations supplement the Ionising Radiations Regulations 1985 (SI No. 1333) in respect of protecting classified workers (often known as category A workers in other member States of the European Community) who go to work in controlled areas which are under the control of someone other than their employer. The date of implementation is [1 January 1994].

Approved code of practice

2 The Approved Code of Practice contains each regulation reproduced in full followed, where appropriate, by practical guidance on compliance which the Health and Safety Commission (HSC) has approved under section 16 of the Health and Safety at Work etc. Act 1974. The practical guidance has been drawn up following widespread consultation with interested parties and in particular with the Health and Safety Commission's Working Group on Ionising Radiations, which has members nominated by the Confederation of British Industry, the Trades Union Congress, Local Authority Associations, the National Radiological Protection Board, Government Departments and professional bodies. The National Radiological Protection Board has also been formally consulted (as required by section 16(2) of HSWA) and its advice has been incorporated in the Code of Practice.

3 The provisions of the Code represent, in the opinion of the Health and Safety Commission, the most appropriate means of complying with the regulatory requirements and, in particular, the methods should be considered to be reasonably practicable when that term appears in the regulations. The regulations supplement the Ionising Radiations Regulations 1985 and this Code should

therefore be read in conjunction with the guidance in the Approved Code of Practice (Parts 1 to 4) supporting those regulations.

4 Although a failure to observe any provision of the Code is not in itself an offence, that failure may be taken by a Court in criminal proceedings as proof that a person has contravened a regulation to which the provision relates. In such a case, however, it will be open to that person to satisfy the Court that the regulation has been complied with in some other way.

5 Words and expressions which are defined in the Health and Safety at Work etc. Act 1974 or in the Ionising Radiations Regulations 1985 have the same meaning in the Code unless the context specifies otherwise.

PRACTICAL GUIDANCE

REGULATION 2 - INTERPRETATION

Operator

2.1 For the purpose of these regulations, a person or organisation will become an operator if both the following conditions apply: firstly, the existing presence of radioactive contamination or use of ionising radiations has caused or would cause them to designate controlled areas (one or more); and, secondly, they have contracted for an outside undertaking to send outside workers to work in one or more of those areas. The fact of another party bringing a source of ionising radiation onto a site would not, of itself, cause the regulations to apply (see Annex 1).

2.2 The operator and the outside undertaking cannot be the same person or organisation simultaneously for the same assignment and must be different employers. An employer will not become an operator for the purpose of these regulations solely by virtue of having several different sites, unless the sites are controlled by separate legal entities.

Outside undertaking

2.3 The definition includes the reference to work in other member States of the European Community because other member States should have similar legislation and therefore outside workers should receive the same level of protection regardless of where they are working in the European Community.

Outside worker

2.4 By virtue of regulation 2(3), students, apprentices and trainees may become outside workers if they are eligible to be designated as classified persons. Self-employed persons and statutorily appointed inspectors are also included, as are people who may become outside workers while temporarily employed.

Other definitions

2.5 All the terms used in these regulations, other than those separately defined in regulation 2(1), have the same meaning as they have in IRR 85. The regulations also apply to self-employed workers, who may therefore be both outside undertakings and outside workers; they could also be operators (but not all at the same time for the same job).

General

2.6 The regulations apply when there is a written or verbal contract between an outside undertaking and an operator for the performance of work by classified persons in a controlled area that is not under the control of the outside undertaking. They also generally apply to persons statutorily authorised to enter premises uninvited, but for specific purposes, ie inspectors. The regulations will not apply where an employer formally hands over responsibility for a specified area of a site, for which he is usually responsible, for the duration of a specific project. Neither do they apply in the case of persons, such as medical consultants, who carry out work in the controlled areas of several different employers with each of whom they have individual contracts of employment (as distinct from contracts for service between operator and outside undertaking).

REGULATION 3 - APPLICATION

3.1 The regulations supplement IRR 85; all IRR 85 requirements therefore still apply and the general requirement in IRR 85 regulation 4 for unspecified co-operation, to achieve the necessary protection for workers and the public, is not affected. The effect of the regulations will be, in many cases, to formalise and standardise the relationship that would anyway have existed between the outside undertaking and the operator.

3.2 Regulation 3(2) relieves operators of duties in respect of statutorily appointed inspectors for which it would not be reasonable to expect them to be responsible, such as checking that an inspector has been properly trained. Inspectors will nevertheless carry radiation passbooks where appropriate, ie when they are outside workers as defined, and IRR 85 regulation 4 (co-operation between employers, in this case the outside undertaking and operator) will still apply. Operators should therefore be prepared to check and take account of passbook entries where this is clearly desirable, eg in the case of CEC Safeguards Inspectors, and to comply with any requests from the outside undertaking that are reasonable, particularly in relation to the latter's statutory duties.

REGULATION 4 - DUTIES OF THE OUTSIDE UNDERTAKING

4.1 Regulation 4 specifies actions that many employers already recognise as good practice, ie to find out well before the work is due to start, generally at the stage when contracts are still being discussed, what risks and additional training needs are associated with the work that the operator requires. This enables outside undertakings, with advice from their Radiation Protection Advisers (RPAs), to take the necessary steps to ensure that the right workers are chosen to do the work and that, before they start the work, they are given the relevant information and training to enable them to protect themselves and others properly (this latter duty already exists, in IRR 85 regulation 12). Other IRR 85 provisions may affect the choice of worker, such as whether any special dose limits (eg that for the abdomen of a woman of reproductive capacity) apply or whether there are any health record entries attaching special conditions to an individual's employment.

4.2 Any arrangement that results in appropriate information being obtained as necessary will be suitable. Whenever reasonably practicable contracts should be written rather than verbal. Whether all the information needs to be obtained in writing is a matter of judgement, depending on the circumstances and the complexity of the work. Written information is likely to be needed in respect of long-term exercises, such as major decontamination projects; particular factors to take into account are the number of workers and spread of disciplines involved, and the likelihood of any significant exposure.

4.3 The outside undertaking may not always be the organisation (or individual) best suited in the circumstances to carry out some particular duty, eg providing any additional training; if appropriate, it would therefore be entirely proper for the outside undertaking and the operator (or, exceptionally, some third party) to enter into contractual arrangements for the performance of that duty (see regulation 8). Such contracts should be in writing; if they are not, then the outside undertaking will need to be able to prove the existence and content of the agreement by some other, equally effective, means.

Work outside GB

4.4 The purpose of the regulations is to make sure that outside workers are subject to the same standard of radiation protection as other classified persons, regardless of whether they are working on their employers' premises or elsewhere. When the work the outside worker is to undertake is in another member State of the European Communities, the outside undertaking should take all reasonable steps to make arrangements to ensure the same standards of dose assessment as would be required under IRR 85 if the work was done in GB. Where the period outside GB is less than a dose assessment period, this would be achieved by requiring the outside worker to continue to wear whatever personal dosemeter is normally worn. Where the period abroad is likely to exceed a dose assessment period, it will generally be reasonably practicable for the outside undertaking to arrange for his Approved Dosimetry Service (ADS) to send replacement personal dosemeters to the outside worker as necessary and for these to be returned to the GB ADS for assessment. Alternatively, the outside undertaking may choose to make arrangements, either directly or perhaps by written contractual arrangement with the operator, for a local dosimetry service that has been recognised by the competent authority of that member State for such purposes to make and notify the dose assessment(s).

REGULATION 5 - RADIATION PASSBOOKS

5.1 A radiation passbook is an approved document, uniquely numbered in each case, which must be purchased from HMSO. Documents issued for this purpose by the competent authorities of other EC member states will also be valid where the outside worker is employed by an outside undertaking that is based not in the UK but in another EC member State. The translations in Annex 2 [HSE note - not yet prepared] may be helpful where the document is in a language other than English. Once issued, the radiation passbook is a non-transferable document, personal to the outside worker to whom it is issued though it remains the property of the outside undertaking. There is no statutory maximum period of validity of a passbook; it may be used until completion unless withdrawn sooner.

5.2 Radiation passbooks are therefore important personal documents that carry identifying information about the individuals to whom they are issued, including the cumulative dose to date received during the year. Their existence helps operators to carry out their duty to ensure that the outside undertaking has provided an outside worker who is fit to do the required work; they also provide a means whereby an operator can readily give the outside undertaking some indication of the dose the outside worker has received while on the operator's site. In some cases operators will have agreed maximum annual levels of exposure for their own workers that are significantly below the statutory dose limits and may be unwilling to expose outside workers at higher levels, in which case the radiation passbook makes knowledge of the dose received so far in the year readily available. Equally, an outside undertaking may choose to identify, in the contract, a maximum dose for the outside worker that the operator should ensure is not exceeded during the assignment. In all cases, the need to ensure that exposure is kept as low as reasonably practicable remains paramount.

Provision and maintenance

5.3 Outside undertakings should make arrangements for their Approved Dosimetry Service (ADS) for record keeping to purchase and allocate passbooks, keep a record of their issue and return, issue replacements and retain withdrawn passbooks for the necessary period. Outside undertakings should consult their Employment Medical Adviser (EMA) or Appointed Doctor (AD) in respect of the entries regarding the medical classification of the outside worker; there is no need for EMAs or ADs to make the actual entry themselves.

5.4 Where the outside undertaking is based in a member State of the European Community other than GB and that member State does not provide an authorised passbook, contracts should specify that the outside undertaking should obtain one from HMSO, via the operator's ADS, and should complete it or provide the necessary information for its completion.

Making suitable arrangements to keep entries up to date

5.5 Whenever an outside worker is to carry out relevant work (ie work in an operator's controlled area), the outside undertaking should make sure that all the personal details in the passbook are up to date; this includes checking that the date of the latest medical review is shown, and any associated change of medical classification (ie fit/not fit/fit subject to conditions), as well as the cumulative dose assessment for the calendar year to date. An up to date entry for cumulative dose will reflect the latest available dose assessment which, for outside workers, should generally be carried out no less frequently than monthly (where current arrangements are for a longer period they should be revised). Entries in passbooks should only be made by the ADS or a properly authorised person, eg the radiation protection superviser (RPS).

5.6 There may be circumstances when it is not practicable to make an updating entry directly into the passbook, eg when the outside worker is away from base at the time the latest information becomes available. In such cases the information should be sent to the outside worker on a gummed insert for temporary fixing in the passbook until a permanent entry can be made; if such a method is used, then the information should clearly relate to a named outside worker (the gummed insert should carry the relevant serial number of the passbook) and should be authorised by the ADS or a person properly authorised by the outside undertaking, eg the RPS.

5.7 Whether the updating actions are contracted out or performed in house, written instructions, specifying who does what and when, will generally be the best means of demonstrating that the arrangements are suitable. Outside undertakings should also be in a position to be able to demonstrate the effectiveness of the arrangements; the easiest and best way is probably to add this matter to their quality assurance programme.

Keeping a suitable record

5.8 A suitable record will comprise:

(a) the unique (serial) number of the passbook;

(b) the name and address of the outside undertaking;

(c) the full name of the outside worker;

(d) a unique identifier for the outside worker, eg National Insurance number, works number or pay reference;

(e) the date of issue;

(f) the date of closure, withdrawal or loss, including adequate identification of the reason;

(g) if a new passbook is subsequently issued (for whatever reason), a cross-reference to the new issue.

Where the reason at (f) is because the passbook has been lost, the record should include a copy of the report of the relevant investigation.

Investigation if a radiation passbook is lost

5.9 The purpose of an investigation in these circumstances is to establish the cause of the loss and, most importantly, to ensure that there can be no advantage, real or apparent, to be gained by an outside worker in disposing of a passbook. The investigation needs to establish the dose received on operators' premises since the last dose assessment; as soon as the loss has been notified the outside undertaking should require a new dosemeter to be issued and the current personal dosemeter to be immediately withdrawn and sent for assessment. It may also be appropriate to approach operators for estimates of dose in the interim. Where a lost passbook is subsequently found and returned to the outside undertaking after a replacement passbook has been issued it should be cancelled and retained.

Retention of passbooks

5.10 Ownership of, and responsibility for, radiation passbooks remains with the employer (outside undertaking) at all times and adequate arrangements should be made for their safekeeping in the event that the employer or ADS goes out of business.

Issue of temporary documents

5.11 Annex 1 contains a sample temporary document and may be copied for use if appropriate. The outside undertaking should make an estimate of the number of visits likely in the limited period of its validity and should therefore make sufficient room available for the necessary operator entries. As speedy issue is essential, the document may be sent by facsimile transfer or electronic mail where necessary. Generally no more than one temporary document should be issued for each occasion. If, exceptionally, the replacement passbook cannot be issued during the validity of the temporary document (eg over an extended Bank Holiday period such as Christmas, or where access is inevitably more time-consuming such as North Sea oil rigs), and further visits to new operators cannot reasonably be rescheduled, it may be reasonable for a second temporary document to be issued. As the delay in issue is most likely to lie with the ADS, and as such circumstances should be rare, it would not be appropriate for the outside undertaking to issue a second temporary document and suitable arrangements for its issue should therefore be made with the relevant ADS. When the replacement passbook has been received by the outside worker, the temporary document should be returned to the outside undertaking and should be associated with previous passbooks for retention.

5.12 The outside undertaking should keep a record of issue of temporary documents, identifying the outside worker and date of issue in each case, which should be available for inspection. This record should also include details of the circumstances of any occasions when an operator has allowed an outside worker to start work in the absence of any passbook or temporary document (see para 6.8).

REGULATION 6 - DUTIES OF THE OPERATOR

Ensuring the suitability of the outside worker

6.1 The duty to ensure that the outside worker has received any specific training is best cleared by contractual agreement between the two parties as to who will provide whatever additional training may be identified as necessary. In the absence of any such agreement or relevant entry in the passbook, the operator may need to ask the outside worker specifically before allowing the work to start. The check of medical fitness consists of looking in the passbook to make sure that an entry has been made in the appropriate place and that it does not seem to indicate that the outside worker is not medically fit to carry out the work.

6.2 When the outside worker arrives at the operator's site and hands over his passbook for checking, the name and address of the operator should be entered. This will ensure that a space for the dose estimate is clearly identified in the event that the estimate cannot be entered when the outside worker leaves the site at the end of the assignment (or earlier, if the work is interrupted before it has been completed).

Checking the issue of personal protective equipment

6.3 Where personal protective equipment is needed, its issue and any related training will often be a matter for contractual agreement between the operator and the outside undertaking. The operator will need to be able to show, if necessary, that someone has been deputed to check its issue before the relevant work starts.

Estimating doses and making entries in passbooks

6.4 It will generally be relatively simple to estimate doses of external radiation received, depending on the period of exposure, by means of direct read, or locally read electronic or thermoluminescent, dosemeters. In some circumstances the use of area or workplace measurements, made under the general supervision of the radiation protection adviser and backed up by comparison with doses received by any other workers wearing personal dosemeters or personal air samplers, may be appropriate. Because the estimated dose needs to be ready for insertion in the passbook as soon as the work has been completed, so that the outside worker can take the passbook with him, quality of information may be less important than immediacy as the outside worker is also subject to the usual dose assessment requirements of IRR 85.

6.5 The estimation of internal dose is more difficult in the short term and it may not be possible to make an entry immediately on completion. In such cases the estimate, which may be based on air sampling results or even time of occupancy and knowledge of general levels of airborne activity, should be sent to the outside undertaking as soon as practicable.

6.6 [If passbooks include details of training] Where an operator provides training for an outside worker, he should enter the necessary information in the passbook.

Passbook entry not needed

6.7 Some outside workers make many short visits, often in a regular pattern, in a working week with each visit resulting in trivial exposure. In such cases the requirement to estimate exposure and make entries in their passbooks on each separate occasion would be unjustifiable in relation to the balance of administrative inconvenience and lack of radiological hazard. Such workers are already subject to statutory dose assessment, by virtue of being classified persons. Radiation protection advisers should be closely involved in decisions as to whether individual circumstances justify the use of this provision and the operator should be able to demonstrate the basis of the calculations that led to this decision. While there will be no need to check the entries in the outside worker's passbook on every visit, the operator should nevertheless arrange for a periodic check to ensure the continuing suitability of the outside worker for work in the operator's controlled areas.

Passbook not available

6.8 If an outside worker who is expected (ie not a casual caller, apart from inspectors) arrives without his passbook, the operator should try to contact the outside undertaking by telephone or other immediate means, to establish as much as possible of the information that would have been in the passbook (outside workers should normally know how to contact their radiation protection superviser at any time of day or night). If it is not possible to contact the outside undertaking it will not normally be appropriate to allow the outside worker to start work, unless the operator has some knowledge of the individual and his dose record from previous work. If the outside worker is allowed to work it will be essential for the operator to make an estimate of the dose received during the work and for him to inform the outside undertaking of the event. The outside undertaking should keep a record of any such occurrences (see para 5.10).

Estimate of dose indicates dose limit exceeded

6.9 The operator should take the actions to investigate the circumstances of an apparent overexposure and, if appropriate, inform HSE and others, required by IRR 85, regulation 29 (which refers to giving overexposures to other employers' workers).

REGULATION 7 - DUTIES OF THE OUTSIDE WORKER

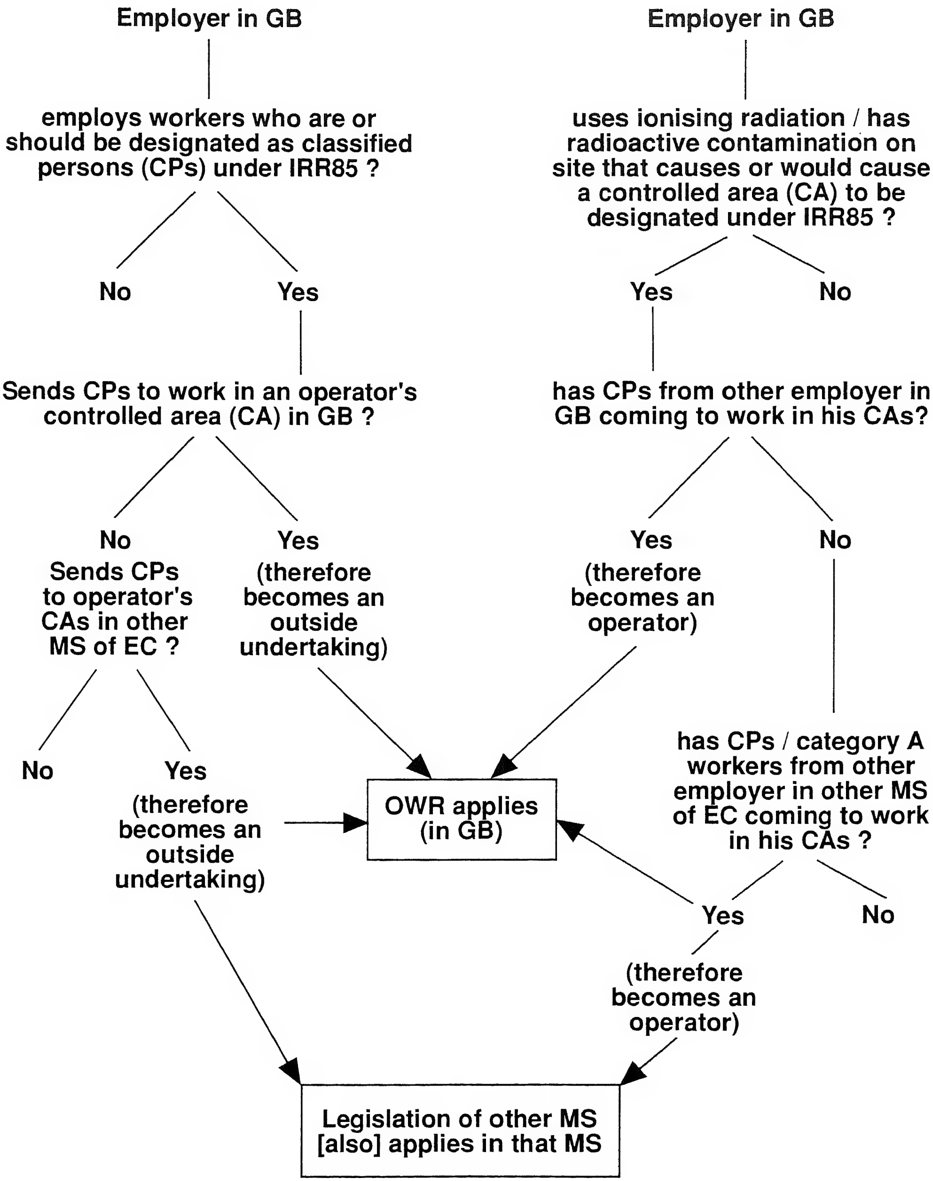
7.1 The requirement to take reasonable care of the passbook should be interpreted as for any important document with a legal status. Reasonable steps to ensure an estimate of dose is entered in an outside worker's passbook would include: looking to see that an entry has been made when collecting the passbook before leaving an operator's premises after completion of an assignment; giving a verbal reminder if an entry has not been made; asking about the arrangements for entering the dose if the operator does not hold the passbook during the assignment.

REGULATION 8 - DEFENCES UNDER THESE REGULATIONS

8.1 The best way of ensuring a high standard of radiation protection for outside workers is for the necessary protective actions to be performed by whichever party is best placed to do so. It is therefore an important principle in these regulations that the duty on one party can be discharged by making demonstrable contractual arrangements with the other party (or, less usually, with a third party) for the performance of the necessary actions. A prime example of where such an arrangement would be appropriate would be where an employer buys a site and then finds that it is contaminated by radioactivity and needs decontaminating. In such circumstances the operator would be most unlikely to have any radiation protection expertise and would need to contract with an outside undertaking to carry out all the necessary radiation protection duties under both these regulations and IRR 85. Such comprehensive contracts would need to be in writing.

8.2 Regulation 8(3) requires the person charged to give the prosecutor (usually HSE) notice that he intends to rely on the defence provided for in this regulation. He must also provide a copy of the contract referred to in the notice and, if that contract is in a foreign language, a translation into English. The prosecutor will then have the opportunity to consider whether to proceed with the prosecution. Regulation 8(4) is a legal mechanism which enables the prosecutor to proceed against the other party to the contract, under section 36 of the Health and Safety at Work etc. Act 1974, if the defence is established. It does not mean that a person who successfully establishes the defence will suffer any penalty or opprobrium.

APPLICATION OF OWR


Employer in GB
employs workers who are or should be designated as classified persons (CPs) under IRR85 ?
No
Yes
Sends CPs to work in an operator's controlled area (CA) in GB ?
No
Sends CPs to operator's CAs in other MS of EC ?
No
Yes
(therefore becomes an outside undertaking)
Yes
(therefore becomes an outside undertaking)
Employer in GB
uses ionising radiation / has radioactive contamination on site that causes or would cause a controlled area (CA) to be designated under IRR85 ?
Yes
No
has CPs from other employer in GB coming to work in his CAs?
Yes
(therefore becomes an operator)
No
has CPs / category A workers from other employer in other MS of EC coming to work in his CAs ?
Yes
(therefore becomes an operator)
No
OWR applies (in GB)
Legislation of other MS [also] applies in that MS

ANNEX 3

If found, please return to the address shown
on the inside front cover

HSE
Health & Safety
Executive

This document has been approved by the
Health and Safety Executive

SERIAL NUMBER: 000001

RADIATION DOSE

PASS BOOK

Name and address of **employer**:

Telephone no:

Fax/Telex no:

Workers identity:

Sex: Title:

Surname:

Forenames:

Date of birth:

Personal number:

Issued by: ADS date:

Signature of authorised officer:

Medical classification:

classification:	Date of last review:
fit/not fit/fit subject to conditions*	1
fit/not fit/fit subject to conditions*	2
fit/not fit/fit subject to conditions*	3
fit/not fit/fit subject to conditions*	4

* Delete those which do not apply and enter summary of conditions (if appropriate) below

1

2

3

4

Signature:

Position in company:

Date:

ESTIMATED DOSE

Name and address of operator	Signature	Period of work activity		**Estimate of external dose (mSv)**			**Estimate of internal dose (mSv)**
				whole body	organ/tissue		
		from	to		extremities*	organs*	

* indicates which organ eg sk - skin
th - thyroid
or extremity eg LH - left hand
RH - right hand

STATUTORY DOSE ASSESSMENT

Name of authorised person	Record period	**External dose (oSv)**		Organs/tissues*				**Internal dose (mSv)**	
		whole body		organs		extremities			
		MONTHLY	CUMULATIVE	MONTHLY	CUMULATIVE	MONTHLY	CUMULATIVE	MONTHLY	CUMULATIVE

* indicates which organ eg sk - skin
th - thyroid
or extremity eg LH - left hand
RH - right hand

ADDITIONAL TRAINING PROVIDED

Name of provider:	Brief description of training provided:		Signature / Date:

TEMPORARY DOCUMENT UNDER REGULATION X OF THE IONISING RADIATIONS (OUTSIDE WORKERS) REGULATIONS 199-

(valid for maximum of 7 days from date of issue or until replacement passbook received, whichever is the shorter)

Information about the outside undertaking

Name, address and telephone number of outside undertaking (including named contact)

....

....

....

Date of issue ....

Signature of authorised person ....

Information about the outside worker

Name of outside worker (Title, forenames, surname)

....

Gender and date of birth ....

Identity number ....

Any medical restrictions affecting work with radiation

....

Date of last medical review ....

Basic radiation protection training given (Yes/No) ....

Cumulative total dose assessed to date in year ....

....

Information about the operator (each assignment)

1st assignment - Name and address of operator

....

....

Additional relevant training given (name of organisation, date and brief description) ....

....

Period of visit and estimated dose

....

Provisional dose sub-total ....

Signature of operator and date ....

2nd assignment - Name and address of operator

....

....

Additional relevant training given (name of organisation, date and brief description) ....

....

Period of visit and estimated dose

....

Provisional dose sub-total ....

Signature of operator and date ....

3rd assignment - Name and address of operator

....

....

Additional relevant training given (name of organisation, date and brief description) ....

....

Period of visit and estimated dose

....

Provisional dose sub-total ....

Signature of operator and date ....

Members of the OWR Guidance Drafting Group

Chairman

(Mrs) Wendy Bines, HSE, NSD F1

Members

(Mr) Colin Cheetham (nominated by TUC)

(Dr) Wynne Davies (nominated by CBI)

(Mr) Clive Dray (nominated for service engineers interests)

(Mr) Brian Ross, HSE, THSD C6

(Mr) Phil Tattersall (nominated by NRPB)

(Mrs) Anne Walker (nominated for health care sector interests)

Papers only

(Mr) Walter McCormick, Ministry of Defence

(Mr) Keith Smith, HSE, NSD B3

Secretary to the Group

(Miss) Teresa Quinn, HSE, NSD F1

COUNCIL DIRECTIVE

of 4 December 1990

on the operational protection of outside workers exposed to the risk of ionizing radiation during their activities in controlled areas

(90/641/Euratom)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 31 and 32 thereof,

Having regard to the proposal from the Commission, submitted following consultation with a group of persons appointed by the Scientific and Technical Committee from among scientific experts in the Member States, as laid down in Article 31 of the Treaty,

Having regard to the opinion of the European Parliament (¹),

Having regard to the opinion of the Economic and Social Committee (²),

Whereas, Article 2 (b) of the Treaty provides that the Community shall establish uniform safety standards to protect the health of workers and of the general public and ensure that they are applied in accordance with the procedures laid down in Chapter III of Title II of the Treaty;

Whereas, on 2 February 1959, the Council adopted Directives laying down the basic standards for the protection of the health of workers and of the general public against the dangers arising from ionizing radiations (³), as amended by Directives 80/836/Euratom (⁴) and 84/467/Euratom (⁵);

Whereas Title VI of Directive 80/836/Euratom lays down the fundamental principles governing operational protection of exposed workers;

Whereas Article 40 (1) of that Directive provides that each Member State shall take all necessary measures to ensure the effective protection of exposed workers;

Whereas Article 20 and 23 of that Directive establish a classification of areas of work and categories of exposed workers according to the level of exposure;

Whereas the workers performing activities in a controlled area within the meaning of the said Articles 20 and 23 can belong to the personnel of the operator or be outside workers;

Whereas Article 3 of Directive 80/836/Euratom concerning the activities referred to in Article 2 of that Directive provides that they should be reported or subject to prior authorization in cases decided upon by each Member State;

Whereas outside workers are liable to be exposed to ionizing radiation in several controlled areas in succession in one and the same Member State or in different Member States; whereas these specific working conditions require an appropriate radiological monitoring system;

Whereas any radiological monitoring system for outside workers must provide protection equivalent to that offered the operator's established workers, by means of common provisions;

Whereas, pending the introduction of a uniform Community-wide system, account should also be taken of the radiological monitoring systems for outside workers which may exist in the Member States;

Whereas, to optimize the protection of outside workers, it is necessary to define clearly the obligations of outside undertakings and operators, without prejudice to the contribution that outside workers themselves have to make to their own protection;

Whereas the system for the radiological protection of outside workers also applies as far as practicable to the case of a self-employed worker with the status of outside undertaking,

HAS ADOPTED THIS DIRECTIVE:

TITLE I

Purpose and definitions

Article 1

The purpose of this Directive is to supplement Directive 80/836/Euratom thereby optimizing at Community level operational protection arrangements for outside workers performing activities in controlled areas.

Article 2

For the purposes of this Directive:

— 'controlled area' means any area subject to special rules for the purposes of protection against ionizing radiation and to which access is controlled, as specified in Article 20 of Directive 80/836/Euratom;

(¹) Opinion delivered on 11 October 1990 (not yet published in the Official Journal).

(²) OJ No C 56, 7. 3. 1990, p. 1.

(³) OJ No 11, 20. 2. 1959, p. 221/59.

(⁴) OJ No L 246, 17. 9. 1980, p. 1.

(⁵) OJ No L 265, 5. 10. 1984, p. 4.

- 'operator' means any natural or legal person who under national law, is responsible for a controlled area in which an activity required to be reported under Article 3 of Directive 80/836/Euratom is carried on;
- 'outside undertaking' means any natural or legal person, other than the operator, including members of his staff, performing an activity of any sort in a controlled area;
- 'outside worker' means any worker of category A, as defined in Article 23 of Directive 80/836/Euratom, performing activities of any sort in a controlled area, whether employed temporarily or permanently by an outside undertaking, including trainees, apprentices and students within the meaning of Article 10 of that Directive, or whether he provides services as a self-employed worker;
- 'radiological monitoring system' means measures to apply the arrangements set out in Directive 80/836/Euratom, and in particular in Title VI thereof, during the activities of outside workers.
- 'activities carried out by a worker' means any service or services provided by an outside worker in a controlled area for which an operator is responsible.

TITLE II

Obligations of Member States' competent authorities

Article 3

Each Member State shall make the performance of the activities referred to in Article 2 of Directive 80/836/Euratom by outside undertakings subject to reporting or prior authorization as laid down in accordance with Title II of the aforementioned Directive, in particular Article 3 thereof.

Article 4

1. Each Member State shall ensure that the radiological monitoring system affords outside workers equivalent protection to that for workers employed on a permanent basis by the operator.

2. Pending the establishment, at Community level, of a uniform system for the radiological protection of outside workers, such as a computer network, recourse shall be had:

(a) on a transitional basis, in accordance with the common provisions set out in Annex I, to

- a centralized national network, or
- the issuing of an individual radiological monitoring document to every outside worker, in which case the common provisions of Annex II shall also apply;

(b) in the case of cross-frontier outside workers, and until the date of establishment of a system within the meaning of paragraph 2, to the individual document referred to in (a).

TITLE III

Obligations of outside undertakings and operators

Article 5

Outside undertakings shall, either directly or through contractual agreements with the operators, ensure the radiological protection of their workers in accordance with the relevant provisions of Titles III to VI of Directive 80/836/Euratom, and in particular:

(a) ensure compliance with the general principles and the limitation of doses referred to in Articles 6 to 11 thereof;

(b) provide the information and training in the field of radiation protection referred to in Article 24 thereof;

(c) guarantee that their workers are subject to assessment of exposure and medical surveillance under the conditions laid down in Articles 26 and 28 to 38 thereof;

(d) ensure that the radiological data of the individual exposure monitoring of each of their workers within the meaning of Annex I, part II to this Directive are kept up to date in the networks and individual documents referred to in Article 4 (2).

Article 6

1. The operator of a controlled area in which outside workers perform activities shall be responsible, either directly or through contractual agreements, for the operational aspects of their radiological protection which are directly related to the nature of the controlled area and of the activities.

2. In particular, for each outside worker performing activities in a controlled area, the operator must:

(a) check that the worker concerned has been passed as medically fit for the activities to be assigned to him;

(b) ensure that, in addition to the basic training in radiation protection referred to in Article 5 (1) (b), he has received specific training in connection with the characteristics of both the controlled area and the activities;

(c) ensure that he has been issued with the necessary personal protective equipment;

(d) also ensure that he receives individual exposure monitoring appropriate to the nature of the activities, and any operational dosimetric monitoring that may be necessary;

(e) ensure compliance with the general principles and limitation of doses referred to in Articles 6 to 11 of Directive 80/836/Euratom ;

(f) ensure or take all appropriate steps to ensure that after every activity the radiological data of individual exposure monitoring of each outside worker within the meaning of Annex I, Part III, are recorded.

TITLE IV

Obligations of outside workers

Article 7

Every outside worker shall be obliged to make his own contribution as far as practicable towards the protection that the radiological monitoring system referred to in Article 4 is intended to afford him.

TITLE V

Final provisions

Article 8

1. Member States shall bring into force not later than 31 December 1993, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

2. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

3. Member States shall communicate to the Commission the main provisions of domestic law which they adopt in the field governed by this Directive.

Article 9

This Directive is addressed to the Member States.

Done at Brussels, 4 December 1990.

For the Council
The President
G. DE MICHELIS

ANNEX I

PROVISIONS COMMON TO THE NETWORKS AND INDIVIDUAL DOCUMENTS REFERRED TO IN ARTICLE 4 (2)

PART I

1. Any radiological monitoring system of the Member States for outside workers must comprise the following three sections:
   - particulars concerning the outside workers' identity;
   - particulars to be supplied before the start of any activity;
   - particulars to be supplied after the end of any activity.
2. The competent authorities of the Member States shall take the measures necessary to prevent any forgery or misuse of, or illegal tampering with, the radiological monitoring system.
3. Data on the outside worker's identity must also include the worker's sex and date of birth.

PART II

Before the start of any activity, the data to be supplied via the radiological monitoring system to the operator or his approved medical practitioner by the outside undertaking or an authority empowered to that end must be as follows:

- the name and address of the outside undertaking;
- the medical classification of the outside worker in accordance with Article 35 of Directive 80/836/Euratom;
- the date of the last periodic health review;
- the results of the outside worker's individual exposure monitoring.

PART III

The data which the operator must record or have recorded by the authority empowered to that end in the radiological monitoring system after the end of any activity must be as follows:

- the period covered by the activity;
- an estimate of any effective dose received by the outside worker;
- in the event of non-uniform exposure, an estimate of the dose-equivalent in the different parts of the body;
- in the event of internal contamination, an estimate of the activity taken in or the committed dose.

ANNEX II

PROVISIONS ADDITIONAL TO THOSE OF ANNEX I CONCERNING THE INDIVIDUAL RADIOLOGICAL MONITORING DOCUMENT

1. The individual radiological monitoring document issued by the Member States' competent authorities for outside workers shall be a non-transferable document.
2. Pursuant to Annex I, Part I (2), individual documents shall be issued by the Member States' competent authorities, which shall give each individual document an identification number.